

FEDERAL REGISTER NOTICE

DEPARTMENT OF HOMELAND SECURITY
Bureau of Customs and Border Protection
DEPARTMENT OF THE TREASURY

19 CFR Part 12 [CBP Dec. 06-22] RIN 1505-AB72

IMPORT RESTRICTIONS ON BYZANTINE ECCLESIASTICAL AND RITUAL ETHNOLOGICAL MATERIAL FROM CYPRUS

AGENCY: Customs and Border Protection, Department of Homeland Security; Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Bureau of Customs and Border Protection (CBP) regulations by reflecting that the bilateral agreement between Cyprus and the U.S. to impose certain import restrictions on archaeological material from Cyprus has been amended to include import restrictions which had been previously imposed on an emergency basis for certain Byzantine period ecclesiastical and ritual ethnological material.

DATES: Effective Date: These regulations are effective on September 4, 2006.

FOR FURTHER INFORMATION CONTACT: For legal aspects, George F. McCray, Esq., Chief, Intellectual Property Rights and Restricted Merchandise Branch, (202) 572-8710. For operational aspects, Michael Craig, Chief, Other Government Agencies Branch, (202) 344-1684.

SUPPLEMENTARY INFORMATION:

Background

Since the passage of the Cultural Property Implementation Act (19 U.S.C. 2601 et seq.), import restrictions have been imposed on archaeological and ethnological artifacts of a number of signatory nations. These restrictions have been imposed either as a result of requests for emergency protection received from those nations or pursuant to bilateral agreements between the U.S. and other countries. Pursuant to Article 9 of the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, and Sec. 303(a)(3) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2602(a)(3)), a State Party to the 1970 UNESCO Convention, may request that the U.S. Government impose import restrictions on certain categories of archaeological and/or ethnological material the pillage of which, if alleged, jeopardizes the national cultural patrimony.

Import Restrictions Imposed on an Emergency Basis

On March 4, 1999, and in response to the determination that an emergency condition applies with respect to certain Byzantine ecclesiastical and ritual ethnological material from Cyprus, the U.S. Government made the determination that emergency import restrictions be imposed. Accordingly, on April 12, 1999, the former United States Customs Service published Treasury Decision (T.D.) 99-35 in the Federal Register (64 FR 17529), which amended 19 CFR 12.104g(b) to indicate the imposition of these emergency import restrictions. In that Treasury Decision, a list designating the types of ethnological materials covered by these restrictions for a five-year period, is set forth.

These emergency import restrictions were later extended by CBP Dec. 03-25 for an additional three-year period. (See 68 FR 51903, August 29, 2003). These emergency import restrictions are scheduled to expire on September 4, 2006.

Import Restrictions Imposed Pursuant to Bilateral Agreement

Pursuant to the provisions of the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention, codified into U.S. law as the Convention on Cultural Property Implementation Act (Pub. L. 97-446, 19 U.S.C. 2601 et seq.), the United States entered into a bilateral agreement with Cyprus on July 16, 2002, concerning the imposition of import restrictions on archeological material originating in Cyprus and representing the pre-Classical and Classical periods. On July 19, 2002, the former United States Customs Service published T.D. 02-37 in the Federal Register (67 FR 47447), which amended 19 CFR 12.104g(a) to indicate the imposition of these restrictions and included a list designating the types of archaeological material covered by the restrictions. The articles that were subject to emergency restrictions in 1999 were not included in the original list designated pursuant to the bilateral agreement.

Amended Bilateral Agreement

Since the emergency import restrictions on the Byzantine materials is due to expire on September 4, 2006, the Republic of Cyprus requested, through diplomatic channels, that the Byzantine materials that have been protected by the emergency action continue to be protected in the future by amending the existing bilateral agreement. After reviewing the findings and recommendations of the Cultural Property Advisory Committee, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, concluded that the cultural heritage of Cyprus continues to be in jeopardy from the pillage of certain Byzantine ecclesiastical and ritual ethnological materials ranging in date from approximately the 4th century A.D. through approximately the 15th century A.D. from Cyprus. On August 11, 2006, the Republic of Cyprus and the U.S. Government amended the bilateral agreement of July 16, 2002, pursuant to the provisions of 19 U.S.C. 2602 and Article 4(b) of the agreement, by including the list of Byzantine ecclesiastical and ritual ethnological material that were protected pursuant to the emergency action in the list of articles protected in the bilateral agreement. Please note that this amended bilateral agreement will expire on July 19, 2007, unless extended by the State Parties.

Regulatory Action

Accordingly, CBP is amending 19 CFR 12.104g(b) to remove the above-referenced Byzantine materials from Cyprus from the list of import restrictions imposed by emergency action, and to reference these materials under the listing of cultural property (Sec. 12.104g(a)) protected pursuant to bilateral agreement.

Lists of Protected Designated Articles

The Designated List of articles that are otherwise protected pursuant to the bilateral agreement on archeological material originating in Cyprus and representing the pre-Classical and Classical periods ranging approximately from the 8th millennium B.C. to 330 A.D. is found in T.D. 02-37. The Designated List of Byzantine Ecclesiastical and Ritual Ethnological Material from Cyprus which is now encompassed within the bilateral agreement is set forth below.

Ecclesiastical and Ritual Ethnological Material From Cyprus Representing the Byzantine Period

Ecclesiastical and ritual ethnological material from Cyprus representing the Byzantine period dating from approximately the 4th century A.D. through the 15th century A.D., includes the categories listed below. The following list is representative only.

I. METAL

A. Bronze

Ceremonial objects include crosses, censers (incense burners), rings, and buckles for ecclesiastical garments. The objects may be decorated with engraved or modeled designs or Greek inscriptions. Crosses, rings and buckles are often set with semi-precious stones.

B. Lead

Lead objects date to the Byzantine period and include ampulla (small bottle-shaped forms) used in religious observance.

C. Silver and Gold

Ceremonial vessels and objects used in ritual and as components of church treasure. Ceremonial objects include censers (incense burners), book covers, liturgical crosses, archbishop's crowns, buckles, and chests. These are often decorated with molded or incised geometric motifs or scenes from the Bible, and encrusted with semi-precious or precious stones. The gems themselves may be engraved with religious figures or inscriptions. Church treasure may include all of the above, as well as rings, earrings, and necklaces (some with ecclesiastical themes), and other implements (e.g., spoons).

II. WOOD

Artifacts made of wood are primarily those intended for ritual or ecclesiastical use during the Byzantine period. These include painted icons, painted wood screens (iconstasis), carved doors, crosses, painted wooded beams from churches or monasteries, thrones, chests and musical instruments. Religious figures (Christ, the Apostles, the Virgin, and others) predominate in the painted and carved figural decoration. Ecclesiastical furniture and architectural elements may also be decorated with geometric or floral designs.

III. IVORY AND BONE

Ecclesiastical and ritual objects of ivory and bone boxes, plaques, pendants, candelabra, stamp rings, crosses. Carved and engraved decoration includes religious figures, scenes from the Bible, and floral and geometric designs.

IV. GLASS

Ecclesiastical objects such as lamps and ritual vessels.

V. TEXTILES -- RITUAL GARMENTS

Ecclesiastical garments and other ritual textiles from the Byzantine period. Robes, vestments and altar clothes are often of a fine fabric and richly embroidered in silver and gold. Embroidered designs include religious motifs and floral and geometric designs.

VI. STONE

A. Wall Mosaics

Dating to the Byzantine period, wall mosaics are found in ecclesiastical buildings. These generally portray images of Christ, Archangels, and the Apostles in scenes of Biblical events. Surrounding panels may contain animal, floral, or geometric designs.

B. Floor Mosaics

Floor mosaics from ecclesiastical contexts. Examples include the mosaics at Nea Paphos, Kourion, Kouklia, Chrysopolitissa Basilica and Campanopetra Basilica. Floor mosaics may have animal, floral, geometric designs, or inscriptions.

VII. FRESCOES/WALL PAINTINGS

Wall paintings from the Byzantine period religious structures (churches, monasteries, chapels, etc.) Like the mosaics, wall paintings generally portray images of Christ, Archangels, and the Apostles in scenes of Biblical events. Surrounding paintings may contain animal, floral, or geometric designs.

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure (5 U.S.C. 553(a)(1)). In addition, CBP has determined that such notice or public procedure would be impracticable and contrary to the public interest because the action being taken is essential to avoid interruption of the application of the existing import restrictions (5 U.S.C. 553(b)(B)). For the same reasons, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply.

Executive Order 12866

This amendment does not meet the criteria of a "significant regulatory action" as described in Executive Order 12866.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1).

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise.

Amendment to CBP Regulations

For the reasons set forth above, part 12 of Title 19 of the Code of Federal Regulations (19 CFR part 12), is amended as set forth below:

PART 12--SPECIAL CLASSES OF MERCHANDISE

1. The general authority citation for part 12 and the specific authority citation for Sec. 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624; Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

2. In Sec. 12.104g, paragraph (a), the entry for Cyprus in the table of list of agreements imposing import restrictions on described articles of cultural property of State Parties is revised to read as follows:

Sec. 12.104g Specific items or categories designated by agreements or emergency actions.

(a)

<i>State party</i>	<i>Cultural property</i>	<i>Decision No.</i>
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Cyprus	Archaeological Material of pre-Classical and Classical periods ranging approximately from the 8 th millennium B.C. to 330 A.D. and ecclesiastical and ritual ethnological material representing the Byzantine period ranging from approximately the 4 th century A.D. through approximately the 15 th century A.D.	T.D. 02-37, as amended by CBP Dec. 06-22.
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3. In Sec. 12.104g, paragraph (b), the table of the list of agreements imposing emergency import restrictions on described articles of cultural property of State Parties is amended by removing the entry for Cyprus, but by retaining the table headings.

Approved: August 25, 2006.

Deborah J. Spero,

Acting Commissioner, Bureau of Customs and Border Protection.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

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